

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE CITY DIVISION  
5:11CV128-RJC

DONALD LEE RICE, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 BEVERLY PERDUE et al., )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** comes before the Court on Plaintiff's Amended Complaint filed on October 21, 2011, pursuant to 42 U.S.C. § 1983 (Doc. No. 1). Plaintiff names twenty-six additional defendants and contends these defendants are part of a conspiracy for "a racial or class based reason." (Doc. No. 4). Plaintiff argues that Defendants "would not give [him] are let [him] buy food are sodas are meat to eat with [his] meals are cosmetics are any kind of food or sodas from the canteen." (Id.). He also alleges that Defendants wrote him up for "misuse of [his] inhaler saying [he] was not suppose to take but two puffs off the inheller [] to catch [his] breath." (Id.). Plaintiff further contends that Defendants have written Plaintiff up for "telling lies" and they serve him food on a tray which is "not fit for a dog to eat out of because the food tray [was] never clean that they gave [him] a Black male civil rights leader to eat out of." (Id. at 3).<sup>1</sup> The Court notes that other than listing the names of the twenty-six new Defendants, Plaintiff does not

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<sup>1</sup> While Plaintiff provides Alexander Correctional Institution as the address for most of the newly named Defendants, it appears that at least some of these new Defendants may be employed at Central Prison, where Plaintiff is currently housed, which is located within the Eastern District of North Carolina.

mention their names again or provide any specific allegations as to any particular Defendant.<sup>2</sup>

Plaintiff initially filed the instant action against Governor Beverly Perdue; Keith Whitener, Superintendent of Alexander Correctional Institution, and Robert C. Lewis, Director of Prisons. (Doc. No. 1). By Order dated October 24, 2011, the Court dismissed Plaintiff's Complaint pursuant to 28 U.S.C. § 1915(g)<sup>3</sup> as Plaintiff has had four previous lawsuits dismissed as frivolous, malicious or for failure to state a claim for relief and failed to demonstrate that he is currently under imminent danger of serious physical injury.<sup>4</sup> (Doc. No. 6). For the reasons stated in the Court's previous Order, Plaintiff's Amended Complaint is dismissed pursuant to 28 U.S.C. § 1915(g). The Clerk shall close this case and Plaintiff is advised that he may not file any further motions to amend in this case.

**IT IS, THEREFORE, ORDERED** that:

- (1) Plaintiff's Amended Complaint is dismissed as this Court already dismissed Plaintiff original Complaint pursuant to 28 U.S.C. § 1915(g);
- (2) The Clerk is directed to send a copy of this Order to the pro se Plaintiff.


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<sup>2</sup> Plaintiff's Complaint is clearly conclusory as it provides no specific allegations as to any of the "listed" Defendants, however, because the Court has already dismissed Plaintiff's initial Complaint pursuant to 28 U.S.C. § 1915(g), (Doc. No. 6), and his amended Complaint will be dismissed for the same reason, the Court need not further discuss the deficiencies of Plaintiff's pleading.

<sup>3</sup> The Court was not aware of the instant motion at the time it dismissed Plaintiff's initial Complaint.

<sup>4</sup> Plaintiff has also not demonstrated that he is under imminent danger or serious physical injury through his Amended Complaint.

Signed: October 25, 2011

  
Robert J. Conrad, Jr.  
Chief United States District Judge

